

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

RICHARD D.,

Plaintiff,

-v-

1:20-CV-1154

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

APPEARANCES:

OF COUNSEL:

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AMY BLAND, ESQ.
Special Ass't U.S. Attorney

DAVID N. HURD
United States District Judge

ORDER ON REPORT & RECOMMENDATION

On September 22, 2020, plaintiff Richard D.¹ (“plaintiff”) filed this action seeking review of the final decision of defendant Commissioner of Social Security (“defendant”) denying his application for Disability Insurance Benefits (“DIB”) and Supplemental Security Income (“SSI”) under the Social Security Act (the “Act”).

Thereafter, the Commissioner filed a certified copy of the Administrative Record and both parties briefed the matter in accordance with General Order 18, which provides that an appeal taken from the Commissioner’s final decision denying benefits will be treated as if the parties have filed cross-motions for a judgment on the pleadings. *See* FED. R. CIV. P. 12(c).

On February 2, 2022, U.S. Magistrate Judge David E. Peebles advised by Report & Recommendation (“R&R”) that plaintiff’s motion for a judgment on the pleadings be granted and that defendant’s motion for a judgment on the pleadings be denied. Dkt. No. 20. The R&R further advised that this matter be remanded to the Commissioner for further proceedings in accordance with sentence four of 42 U.S.C. § 405(g). *Id.*

¹ In accordance with a May 1, 2018 memorandum issued by the Judicial Conference’s Committee on Court Administration and Case Management and adopted as local practice in this District, only claimant’s first name and last initial will be mentioned in this opinion.

Neither party has filed objections to this R&R, and the time period in which to do so has expired. *See* Dkt. No. 20. Upon review for clear error, the R&R will be accepted and adopted in all respects. *See* FED. R. CIV. P. 72(b).

Therefore, it is

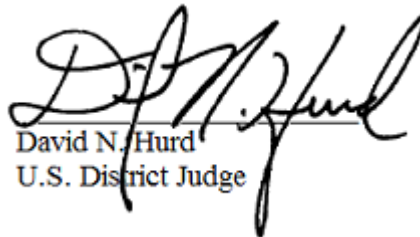
ORDERED that

1. The Report & Recommendation is ACCEPTED;
2. Plaintiff's motion for a judgment on the pleadings is GRANTED;
3. Defendant's motion for a judgment on the pleadings is DENIED;
4. This matter is REMANDED to the Commissioner for further proceedings in accordance with sentence four of 42 U.S.C. § 405(g).

The Clerk of the Court is directed to terminate the pending motions, enter a judgment accordingly, and close the file.

IT IS SO ORDERED.

Dated: February 18, 2022
Utica, New York.



David N. Hurd
U.S. District Judge